

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Dejuan Haywood Haggins,

Civil No. 10-1002 (DWF/LIB)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

MN Commissioner of Corrections,
John King, Michelle Smith, Greg
Lindell, Jessica Symmes, Mary
McCombs, Peter Puffer, Terry
Jorgeson, Kent Grandlienard, and
Tom Sholes,

Defendants.

Dejuan Haywood Haggins, *Pro Se*, Plaintiff.

Jackson Evans, Assistant Attorney General, Minnesota Attorney General's Office,
counsel for Defendants.

This matter is before the Court upon Plaintiff Dejuan Haywood Haggins's objections (Doc. No. 117) to Magistrate Judge Leo I. Brisbois's February 14, 2012 Report and Recommendation (Doc. No. 116) insofar as it recommends that Defendants' Motion for Summary Judgment be granted. Defendants filed a response to Plaintiff's objections on March 8, 2012. (Doc. No. 119.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of the parties, pursuant to 28 U.S.C. § 636(b)(1) and Local

Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections.

The Court has carefully reviewed the record and concludes that Plaintiff's objections offer no basis for departure from the Report and Recommendation. Plaintiff first contends that "there is no Plaintiff's Motion for Summary Judgment, as it was withdrawn soon after it was filed." (Doc. No. 117 at 1.) Plaintiff cites to no correspondence in the record withdrawing the motion; it appears, however, that Plaintiff intended to withdraw his motion for summary judgment (Doc. No. 56). Regardless, the Court concludes that Plaintiff's motion for summary judgment, whether moot or not, is properly denied on the merits.

Additionally, Plaintiff disputes the Magistrate Judge's recommendation that Defendants' motion for summary judgment be granted. The Court concludes that Plaintiff has failed to provide factual or legal support for his claims. Plaintiff neither points to specific facts showing that there are genuine issues for trial on his Eighth Amendment claim nor provides any support for his assertion that his segregation constituted an atypical hardship under the Due Process Clause. Consequently, Defendants' motion for summary judgment is properly granted.¹

¹ Plaintiff's affidavit is insufficient to create a genuine issue of material fact for trial. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986); *Frevert v. Ford Motor Co.*, 614 F.3d 466, 473-74 (8th Cir. 2008); *Dulany v. Carnahan*, 132 F.3d 1234, 1240-45 (8th Cir. 1997).

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Dejuan Haywood Haggins's objections (Doc. No. [117]) to Magistrate Judge Leo I. Brisbois's February 14, 2012 Report and Recommendation are **OVERRULED**.

2. Magistrate Judge Leo I. Brisbois's February 14, 2012 Report and Recommendation (Doc. No. [116]) is **ADOPTED**.

3. Plaintiff's Motion for Summary Judgment (Doc. No. [56]) is **DENIED**.

4. Defendants' Motion for Summary Judgment (Doc. No. [56]) is **GRANTED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 22, 2012

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge